

County Administrator's Digest

July 27, 2012

Alan G. Vanderberg, County Administrator

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Digest format reminder: I typically compile information from many different sources when putting the Digest out and work hard to make sure that I give credit where credit is due by placing the name of the person submitting the article in parentheses behind the title at the top of each article. When I have a comment on an article I typically write something at the beginning or end of the article and it will be in a different color font, usually green or blue.

PUBLIC OFFICIALS ERRORS & OMISSIONS INSURANCE

Sometimes you never know what the media will decide is newsworthy on a given day and yesterday the focus became who is paying for the defense of Judge Ken Post in regards to the Judicial Tenure Commission investigation and subsequent report and charges made public earlier this week. The media seemed to want to make a big deal out of the fact that the Ottawa County Insurance Authority is paying for Post's defense and I did an interview with TV – 8 and also the Grand Rapids Press on this topic.

The fact is that all elected and appointed officials and employees of Ottawa County benefit from the Public Officials Errors and Omissions policy that is one of the many policies purchased by the Ottawa County Insurance Authority (OCIA) each year. The OCIA was created by the County and Building Authority in 1993 per a Michigan law that allows a county government and one or more other county level agencies to join together and create an insurance authority. The County and Building Authority pay premiums to the authority and the authority provides first dollar property and casualty insurance in many different coverage areas to certain caps in each area and then purchases excess insurance to protect against larger losses. Most if not all counties and other municipalities in Michigan carry similar coverage and the practice is common in the private sector where this insurance is called Director's & Officer's Insurance. The OCIA retains the right to not cover an employee or official but to my knowledge has never failed to provide representation when someone has been sued for something that happened when they were legitimately discharging their duties.

This insurance provides basic liability for errors and omissions officials. Many exclusions exist for things like fraud, dishonesty, commissions of crimes such as assault



& battery, bodily injury or property damage, embezzlement, etc. The basic concept is that public officials that make decisions on the behalf of a municipal corporation will always have those who agree or disagree with many decisions or even make an occasional mistake. In these cases, the theory is that the public should protect those who make decisions on its behalf unless there is intentional criminal activity that occurs.

A great example of how this works is a situation that I inherited shortly after taking over as City Manager of South Haven. Six months prior to my arrival in town three Kalamazoo area youth participating in a senior skip day were drinking near Lake Michigan and were swept off the pier during dangerous weather during which they had no business being on the pier. This happened more than six months prior to my taking over as City Manager. I was personally named in the subsequent \$55 million lawsuit along with the City and the responding police and fire officers. It took more than 2 years to get my name dropped from the suit and the attorney fees were paid from the City insurance policy and not from my personal finances.

It wouldn't be very easy to find public employees for any jobs if they had to defend themselves, with their own money from lawsuits filed against them for actions related to performance of their duties. The GR Press article follows below and the TV – 8 interview is still on their website.

Ottawa County to pay legal fees for beleaguered Hudsonville Judge Ken Post

Published: Wednesday, July 25, 2012, 4:24 PM Updated: Wednesday, July 25, 2012, 4:57 PM

By **John Tunison** | jtunison@mlive.com The Grand Rapids Press



Hudsonville District Court Judge Ken Post

OTTAWA COUNTY, MI -- A division of Ottawa County government, its insurance authority, is expected to cover the legal costs of Hudsonville District Court Judge Ken Post over a judicial complaint filed this week.

Authorities with the state Judicial Tenure Commission lodged the complaint Monday, alleging that the longtime Ottawa County judge acted improperly when he threw a Stanton attorney in jail in December on a contempt

charge.

The judge, who could face sanctions, is accused of not following the law, trivializing the court process and not using proper demeanor to the lawyer, Scott Millard.

Post, who **admits he made a legal error during the Dec. 2 hearing** and regrets some of the comments he made to Millard, hopes to work out a resolution with the Judicial Tenure Commission short of an administrative trial.

But in the meantime, the attorney for the county's insurance authority, Doug Van Essen, is handling the case for Post.

Ottawa County Administrator Al Vanderberg said it's standard for Ottawa County, and other counties as well, to cover the legal risk for county officials.

"Judge Post was literally performing his job when these allegations arose," he said.

"So this really is just a ministerial process," Vanderberg said.

County departments contribute to the insurance authority as a way of funding the agency.

Regardless of whether Post was right or wrong in the Dec. 2 hearing, Vanderberg said it's not uncommon for counties to cover such legal fees.

"It's pretty standard, really," he said.

Other local judges also have fought battle with the Judicial Tenure Commission in the past.

Kent County Judge Steven Servaas came before the commission in 2009, largely over accusations he had not lived in his judicial district (north of Four Mile Road) for years.

His attorney, James Brady, today said he recalled that Kent County had a limited policy to cover legal expenses for such cases, but it was exhausted after the Judicial Tenure Commission hearings and Servaas ended up paying out-of-pocket, in part, for an appeal to the state Supreme Court.

A Kent County official confirmed that the county has insurance coverage that covers up to \$100,000 for Judicial Tenure Commission complaint.

Former Kent County Circuit Court Judge Dennis Kolenda, who now is in private practice and represented Grand Rapids District Court Judge Benjamin Logan in a Judicial Tenure Commission complaint, said he believes all judges across the state are covered by insurance.

He said the policy in Logan's case also paid up to \$100,000 in legal fees, although the fees in that case were only a 'fraction' of that amount.

E-mail John Tunison: jtunison@mlive.com and follow him on Twitter at twitter.com/johntunison

ROBINSON TOWNSHIP TOWER (Paul Sachs)

AT&T installed their wireless broadband equipment on the County's new Robinson Township Tower in late-June. They were scheduled to begin testing their broadband service in July and proceed with a 'go-live' date soon thereafter. According to a recent communication from AT&T, there are extenuating circumstances with the T1 (i.e. fiber optic) line connection and it has been delayed until late August or early September. The Planning and Performance Improvement Department is working with AT&T in an attempt to reduce the delay. Additionally, Verizon is expected to begin installing their wireless broadband equipment on the tower sometime in September.

The Robinson tower is the second tower constructed by the County for the purpose of revenue generation. Since the purpose of these two towers is not related to County operations the County pays taxes to Olive Township where the first tower is located on Fillmore and now to Robinson Township. We wait to approve a new tower until a minimum of two vendors agree to connect to the tower which provides a five-year payback on the investment. We plan to apply net proceeds to new technology investment. We specifically have built towers where there is a need and where the private sector has not stepped up to build a tower.

**OTTAWA COUNTY AGRICULTURAL TECHNOLOGY BUSINESS INCUBATOR** (Mark Knudsen)

As many of you are aware, the Ottawa County Planning Commission is conducting a study (Market Needs and Feasibility) to determine whether to develop an Agricultural Technology Business Incubator.

A business incubator provides mentoring, training, facilities, and other forms of assistance to entrepreneurs who have new business ideas. This assistance helps improve the long-term survival rates of these new businesses when compared to other business start-ups that do not receive incubator assistance. Ottawa County's incubator would emphasize entrepreneurs who have technology related business ideas that are focused on one of our

County's greatest strengths – Agriculture.

Greenwood Consulting Group Inc. (GCGI) was hired through a United States Department of Agriculture (USDA) in May, 2012 to complete the Study. Jim Greenwood, president of GCGI, was in West Michigan interviewing business owners, agricultural leaders, government officials, and economic development specialists last week to obtain research data and other information for the Study. Jim will return for interviews during the week of August 6, 2012.

Jim will also be conducting a seminar on the federal government's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) grant programs for local small business owners, entrepreneurs, and farmers on August 8, 2012 (for more information go to http://www.miottawa.org/CoGov/Depts/Planning/Economic_Development.htm.)

Additionally, in the next two weeks, a survey will be conducted with small business owners, entrepreneurs, farmers, university faculty members, and professional service providers in the region. This survey will gauge the level of start-up businesses, farmers, entrepreneurs, and others in the region that have technology ideas. It will also determine the general level of support in the community for such a project.

The Market Needs and Feasibility Study will be completed in October, 2012. If the business incubator is determined to be "feasible and sustainable", GCGI will then complete a Business Plan by December, 2012.

For more information, contact the Planning and Performance Improvement Department at 616-738-4852 or by email at plan@miottawa.org.

COUNTY/ROAD COMMISSION STUDY

The Board of Commissioners approved their end of a joint resolution to establish a study committee with County, Road Commission, township and citizen representation to look at the question of whether the road commission should be assumed into the overall County organization. Many citizens are surprised to learn that the County and Road Commission are separate organizations as evidenced by citizen survey responses. There is no agenda other than to research the facts and see what is in the best interest of residents and the motoring public.

The following related article ran in the Holland Sentinel:

By ANNETTE MANWELL

The Holland Sentinel

Posted Jul 24, 2012 @ 05:35 PM

A joint committee will take about one year to study whether Ottawa County assuming the role of the Ottawa County Road Commission is feasible.

The Ottawa County Board of Commissioners approved Tuesday the formation of the committee. It will consist of two county commissioners, two road commissioners, two representatives from the townships and two business leaders. The representatives will be appointed by Board Chairman Phil Kuyers and approved by the road commission.

The study is being done after Gov. Rick Snyder signed a law allowing the dissolution of road commissions as part of his push toward government consolidation. In February a joint statement from the county and the road commission said the two would not consolidate “merely for the sake of consolidation.”

The new state law also allows voters to make the choice to dissolve a road commission.

There was no discussion among the county board members Tuesday. The resolution to form the committee passed unanimously. The resolution calls for a recommendation by July 1, 2013.

The road commission consists of five voting members who are appointed by the county board. They are not elected by county voters.

“We have not taken a position on the issue,” County Administrator Al Vanderberg said in a prepared statement. “Our first step is a thorough study of the pros and cons of such a change and to determine what is in the best interests of the residents, county, local units of governments and the motoring public.”

In February, Vanderberg said he could see costs and benefits to consolidating.

Michigan is the only state to operate road commissions separate from county boards, the statement from the county said.

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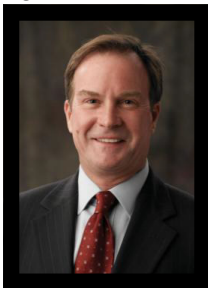
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GVMC DIRECTOR WEISS UPDATE

[Click here](#) to read the latest weekly update from GVMC Executive Director John Weiss.

**Attorney General Bill****Schuette to Speak at October
Quarterly Luncheon**

Please reserve October 8th at noon for our next Quarterly Luncheon. Our guest will be Michigan Attorney General Bill Schuette. The meeting will be in cooperation with the Grand Rapids Bar Association. Bill became Michigan's 53rd Attorney General in January 2011. He has extensive experience in both federal and state government. He has served the executive, legislative and judicial branches of government for three



decades. He began his career in 1984, when he was elected to the United States House of Representatives at age 31. He served three terms in the Congress. In 1990, Bill was Michigan's Republican candidate for the U.S. Senate.

Reserve Your**Quarterly Luncheon Tickets****for****Oct. 8th with****Attorney General Bill Schuette****Price: \$25.00 per person****RSVP to Gayle at mccrathg@gvmc.org**

In 1991, Bill was named Director of the Michigan Department of Agriculture and served as a member of Governor Engler's Cabinet.

While he was Director of the Department of Agriculture, Bill and his wife Cynthia created Michigan Harvest Gathering, a food and fund drive to help feed hungry people throughout Michigan. The Harvest Gathering has raised more than \$6.1 million and 7.8 million pounds of food for Michigan families.

In 1994, Bill was elected to the Michigan Senate from the 35th District. In May of 2001, President George W. Bush selected Bill to be his Personal Representative to the Australian-American Friendship Week.

In 2012, Bill Schuette was elected to the Michigan Court of Appeals and served for 6 years as one of 28 appellate judges in Michigan.

Bill also served as Senior Counsel at the law firm of Warner, Norcross and Judd from 2009 to 2010. He serves on many boards and organizations in Midland and throughout Michigan. Bill is a Fellow of the Michigan Bar Association.

We are pleased to have Attorney General Schuette as our guest.

Board Meeting Highlights

Our next Board of Director's Meeting will be on Thursday August 2nd at 8:30 am. It will be held at the County Building in the County Commission Chambers.

On our agenda will be the appointment and swearing in Michael Selden, City Manager of the City of Wayland. We will also have a presentation by Roger Safford, PE, Regional Engineer for MDOT. Roger will discuss with our state-wide transportation issues as well as all the activities in our region.

We will also be presenting a first look at the GVMC 2012-2013 Budget. I am presenting it at this meeting in order to give the Board a month to review and ask any questions about the budget.

In my Budget Message is a detailed listing of all the critical budget dates. We have had many members involved in the budget process including the Transportation Policy Committee, the REGIS Executive Committee and REGIS Board, and our GVMC Budget and Executive Committees.

We have dramatically increased transparency of the process by involving so many members and allowing extra time for review. The budget will be on the agenda for final adoption in September after a one month review period.

**Monday • October 8, 2012
12:00 Noon**

Prince Conference Center
Calvin College

1800 East Beltline, SE.
Grand Rapids, Michigan

The cost of the luncheon is \$25.
RESERVATIONS ARE REQUIRED.

RSVP to mccrathg@gvmc.org by
October 1, 2012.

Name _____

Organization _____

Address _____

E- Mail _____

Phone _____

Payment should be sent
in advance to:
GVMC, 678 Front Ave. NW Ste. 200,
Grand Rapids, MI 49504

Those making reservations will be
held responsible for payment unless
the reservation is
cancelled at least 24 hours prior to
luncheon date.

GVMC

The Grand Valley Metro Council (GVMC) is a regional organization dedicated to promoting cooperation and coordination among local governments in the metropolitan Grand Rapids area. Created in 1990, its membership now includes 35 local governments, representing nearly 650,000 people. Its mission is to advance the current and future well-being of our metropolitan area by bringing together public and private sectors to cooperatively advocate, plan for, and coordinate the provision of services and investments which have environmental, economic and social impact.



*To promote justice, professional excellence
and respect for the law, foster the dignity
and integrity of the profession, provide
law-related services to the community,
and serve the needs of our members.*

GVMC



MICHIGAN
ATTORNEY GENERAL
BILL SCHUETTE

October 8, 2012 • 12:00 Noon

Prince Conference Center
Calvin College

Presented by the

Grand Valley
Metropolitan Council

in association with the

Grand Rapids
Bar Association

Upon taking office, Michigan Attorney General Bill Schuette launched a new Public Integrity Unit to crack down on corruption at all levels of government. Already, it has filed 115 charges and secured six convictions. He appointed the first in State of Michigan history Crime Victims' Rights Advocate to serve as a voice and an advocate for the victims of crime, who are all too often forgotten. Schuette helped engineer a landmark mortgage foreclosure settlement that includes more than half-a-billion dollars in relief to struggling homeowners in Michigan.

Additionally, Schuette is a national leader in the fight against Asian Carp and other invasive species threatening the five Great Lakes. He is also leading a lawsuit against the federal government for stronger ballast water standards, to help clean up the Great Lakes. In his role as Consumer Watchdog, Schuette has secured an historic 5-year rate freeze for seniors who purchase Medigap insurance through Blue Cross Blue Shield.

Bill Schuette and his wife Cynthia created the Michigan Harvest Gathering, a food and fund drive to help feed hungry people in Michigan that has raised more than \$7.7 million and 8 million pounds of food.

Bill Schuette is one of the few individuals to have served in all three branches of government – executive, legislative and judicial – as well as at both the state and federal levels. He and his wife Cynthia are the parents of two children, Heidi and Billy, and they reside in Midland, Michigan.

Quarterly Luncheon

October 8, 2012 – Noon
Prince Center of Calvin College



Bill Schuette was elected as Michigan's 53rd Attorney General in November 2010 and took office January 1, 2011. He has extensive experience in both federal and state government and has served Michigan in the executive, legislative and judicial branches of government for three decades.

Bill Schuette's commitment to public service began in 1984 when he was elected to the United States House of Representatives.

At the age of 31, he was one of the youngest Congressmen in America.

In January of 1991, Bill was named Director of the Michigan Department of Agriculture.

In 1994, Bill was elected to the Michigan Senate, representing Michigan's 35th Senate District.

In November of 2002, Bill Schuette was elected to the Michigan Court of Appeals and served for 6 years as one of 28 appellate judges in Michigan.

Bill also served as Senior Counsel at the law firm of Warner, Norcross & Judd from 2009 to 2010.

A native of Midland, Michigan, Bill Schuette graduated cum laude from Georgetown University in 1976, receiving a Bachelor of Science in the Foreign Service. He also studied at the University of Aberdeen in Scotland. Bill earned his law degree from the University of San Francisco in 1979.

GVMC